U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

AUG 04 2004

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Applicant: [redacted]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on adverse information provided by Frank Vega, for whom the applicant claimed to have worked.

On appeal, the applicant explains why he did not claim his *other* employment initially.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. § 210.3(d). 8 C.F.R. § 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. § 210.3(b).

On the Form I-700 application, the applicant claimed to have weeded and harvested chilis and broccoli for 90+ days for Frank Vega in Santa Barbara County, California from May 1985 to December 1985.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both purportedly signed by [redacted]

In attempting to verify the applicant's claimed employment, the director acquired information that contradicted the applicant's claim. On July 30, 1989 [redacted] stated in a letter to the Immigration and Naturalization Service (INS) that he had never been a farm labor contractor, but rather was a sharecropper, foreman, and supervisor at various farms in th[redacted] Southern California. [redacted] stated that his signature had been falsified on employment documents, and submitted to INS a list of 267 names belonging to the individuals who had actually worked for him or with him. The applicant is not named on this list. [redacted] also informed INS that he worked during the qualifying period only from May 6, 1985 to December 17, 1985.

In the decision, the director noted that the signatures of [redacted] on the applicant's supporting documents were visibly and significantly different from authentic exemplars obtained by INS. However, the signature discrepancy cited by the director is minimal, and it does not appear that a determination can be made without forensic analysis of the signatures.

On December 17, 1991, the applicant was advised in writing of the adverse information, and of the director's intent to deny the application. The applicant was granted thirty days to respond. In response, he furnished an affidavit from [redacted] indicating that he was employed by her in the 1985-86 period at [redacted] He also provided a letter from the secretary a[redacted], verifying that Esther Robles was an independent contract grower there from October 1985 to September 1986. The applicant did not contest the adverse information regarding his claim to have worked for [redacted]

The director concluded the applicant had not overcome the derogatory evidence, and denied the application. On appeal, the applicant explains that, initially, he was not sure that he was going to be able to acquire

evidence from [redacted] and that is why he did not claim that employment on his application. He again fails to contest the adverse information regarding his claim of employment for [redacted]

The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. § 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. § 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence (including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. § 210.3(b)(3).

There is no mandatory type of documentation required with respect to the applicant's burden of proof; however, the documentation must be credible. All documents submitted must have an appearance of reliability, i.e., if the documents appear to have been forged, or otherwise deceitfully created or obtained, the documents are not credible. *United Farm Workers (AFL-CIO) v. INS*, Civil No. S-87-1064-JFM (E.D. Cal.).

The applicant is not named on the list of employees provided by [redacted] The applicant has not overcome this adverse evidence which directly contradicts the applicant's claim. Therefore, the documentary evidence submitted by the applicant regarding that claim cannot be considered as having any probative value or evidentiary weight.

An applicant raises serious questions of credibility when asserting an entirely new claim to eligibility after having been advised that his initial claim appeared false. The instructions to the application do not encourage an applicant to limit his claim; rather they encourage the applicant to list multiple claims as they instruct him to show the most recent employment first. Furthermore, as the applicant has not contested the finding that his initial claim was false, *his overall credibility is suspect*. For this reason, the applicant's new claim of employment, made four years after the initial one, is deemed not credible.

The applicant has not even contested the adverse evidence regarding his first claim. His new claim is not credible. Under these circumstances, it cannot be concluded the applicant has established that he performed at least 90 man-days of qualifying agricultural employment during the statutory period ending May 1, 1986. Consequently, the applicant has not demonstrated his eligibility for temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.